

**North Central New Mexico Economic Development District
Non-Metro Area Agency on Aging**

COVID-19 FFCRA FEDERAL SUB-AWARD

This Award is made and entered into by and between North Central New Mexico Economic Development District (NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as "Agency", and **City of Gallup**, hereinafter referred to as "Subrecipient", and is effective as of the date set forth below upon which it is executed by the Agency and collectively as the "Parties". This emergency award is specifically for: Program (CM-C2 and HD-C2) pursuant to the Families First Coronavirus Response Act (FFCRA), Older Americans Act Title III - Congregate Meals and Home-Delivered Meals awarded to New Mexico on March 20, 2020.

IT IS IN AGREEMENT BETWEEN THE PARTIES:

1. Scope of Services.

- A. The Subrecipient shall perform the work outlined in Attachment 1, Scope of Work.

2. Compensation.

- A. The Agency shall pay to the Subrecipient, in full, payment for services satisfactorily performed based upon deliverables as outlined in Attachment 1, Scope of Work. The amount payable to the Subrecipient under this Award, including gross receipts tax, shall not exceed \$25,578.76. The Subrecipient shall ensure that the COVID-19 Emergency funds are to be used exclusively as outlined in Attachment 1, Scope of Work. The Subrecipient is responsible for notifying the Agency when the services provided under this Award reach the total compensation amount. In no event will the Subrecipient be paid for services provided in excess of the total compensation amount without this Award being amended in writing prior to those services in excess of the total compensation amount being provided.
- B. Payment for services shall be consistent with all applicable federal and state laws and regulations.
- C. Payments to the Subrecipient will be made subsequent to receipt of funds by the Agency. Any expenditure made prior to the receipt of funds or pending the Agency's approval shall be made at the Subrecipient's own risk, and the Agency shall not be liable for such expenditures.
- D. Payments to the Subrecipient may be withheld or denied by the Agency for expenditures which are not authorized by, or are in excess of, the regulations, terms and conditions contained in this Award or for expenditures which are not properly documented or substantiated by the Subrecipient. The Subrecipient agrees to hold the Agency harmless against all audit exceptions arising from the Subrecipient's violation and shall make restitution to the Agency of such amounts of money due to the Subrecipient's non-compliance.

- E. The total payments for services rendered by the Agency under the terms and conditions of this Award shall not exceed those listed in this Award.
- F. Payments to the Subrecipient will be made electronically through the Automated Clearing House (ACH) Network.

3. Terms of the Award

This Award shall become effective March 1, 2020 and shall terminate on September 30, 2021, unless terminated pursuant to the Families First Coronavirus Response Act (FFCRA), Older Americans Act Title III - Congregate Meals and Home-Delivered Meals awarded to New Mexico Aging and Long-Term Services Department on March 20, 2020.

4. TERMINATION.

- A. This Award may be terminated by the Agency without cause upon written notice delivered to the Subrecipient at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Award may be terminated immediately, upon written notice to the Subrecipient, if the Subrecipient becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Award, the Subrecipient or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Subrecipient fails to comply with any of the terms contained herein or is in breach of this Award as set forth in Paragraph 6, below. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Subrecipient's default or breach of this Award. This Award may also be terminated by the Subrecipient upon thirty (30) days written notice to the Agency.
- B. Termination Management. Immediately upon receipt of notice of termination of this Award by either the Agency or the Subrecipient, the Subrecipient shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Award without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Award; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and client records generated under this Award and any non-expendable personal property or equipment purchased by the Subrecipient with award funds shall become property of the Agency upon termination. On the date the notice of termination is received, the Subrecipient shall furnish to the Agency a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Agency agreements with the Subrecipient; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Subrecipient under the paragraph of this Award regarding financial records.

5. **Status of Subrecipient.**

The Subrecipients, its agents, and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Subrecipient, its agents and employees shall not accrue leave, retirement, insurance, bonding, use of Agency vehicles, or any other benefits afforded to employees of the Agency as a result of this Award. The Subrecipient acknowledges that all sums received hereunder are reportable for income tax purposes.

6. **Assignment.**

The Subrecipient shall not assign or transfer any interest in this Award or assign any claims for money due or to become due under this Award without the prior written approval of the Agency.

7. **Subcontracting.**

The Subrecipient shall not subcontract any portion of the services to be performed under this Award without the prior written approval of the Agency. No such subcontract shall relieve the primary Subrecipient from its obligations and liabilities under this Award, nor shall any subcontract obligate direct payment from the Agency.

8. **Release.**

The Subrecipient acceptance of final payment of the amount due under this Award shall operate as a release of the Agency, its officers and employees from all liabilities, claims and obligations, whatsoever, arising from or under this Award. The Subrecipient agrees not to purport to bind the Agency unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

9. **Confidentiality.**

Any information provided to or developed by the Subrecipient in the performance of this Award shall be kept confidential and shall not be made available to any individual or organization, by the Subrecipient without the prior written approval of the Agency. Disclosure of confidential information shall only be made in accordance with the Inspection of Public Records Act or the applicable state or federal laws or regulations. Subrecipient shall establish a method to guarantee the confidentiality of all information relating to clients in accordance with applicable federal, state and local laws, rules and regulations, as well as the terms of this Award. However, this provision shall not be construed as limiting the rights of the Agency or any other federal or state authorized representative to access client case records or other information relating to clients served under this Award.

10. **Product of Service – Copyright.**

All materials developed or acquired, by the Subrecipient, under this Award, shall become the property of the Agency and shall be delivered to the Agency no later than the termination date of this Award. Nothing produced, in whole or in part, by the Subrecipient, under this Award, shall be the subject of an application for copyright or other claim of ownership, by or on behalf, of the Subrecipient.

11. **Conflict of Interest.**

The Subrecipient warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree, with the performance or services required under the Award. The Subrecipient certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

12. Amendment.

This Award shall not be altered, changed or amended, except by instrument in writing, executed by the parties hereto.

13. Merger.

This Award incorporates all the agreements, covenants and understandings between the parties hereto, concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Award. No prior agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Award.

14. Penalties.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

15. Applicable Law.

The laws of the State of New Mexico shall govern this agreement.

16. Workers Compensation.

The Subrecipient agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Subrecipient fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Award may be terminated by the Agency.

17. Records and Financial Audit.

The Subrecipient shall maintain detailed time and expenditure records, including, but not limited to, client records, books, supporting documents pertaining to services provided, that indicate the date, time, nature and cost of services rendered during the Award's term and effect and retain them for a period of three (3) years from the date of final payment under this Award. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Award shall not foreclose the right of the Agency to recover excessive or illegal payments. If, pursuant to this Award, the Subrecipient receives federal funds subject to the Single Audit Act, the

The Agency shall be notified of changes in, and must concur with the selection process for, Key Personnel. The Agency considers the following positions as Key Personnel:

1. Program Director
2. Financial Manager

The Subrecipient will maintain full-time Key Personnel throughout the term of this agreement.

22. Invalid Term Or Condition.

If any term or condition of this Award agreement shall be held invalid or unenforceable, the remainder of this agreement shall not be affected and shall be valid and enforceable.

23. Enforcement Of Award.

A party's failure to require strict performance of any provision of this Award shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Award shall be effective unless expressed in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

24. Notices.

Any notice required to be given to either party by this Award shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

AGENCY:

NCNMEDD
Attn: Marcia A. Medina
3900 Paseo Del Sol
Santa Fe, NM 87507

SUBRECIPIENT:

City of Gallup - Gallup Sr. Program
Attn: Maryann Ustick, Gallup City Mgr.
PO Box 1270
Gallup, NM 87301

25. Insurance.

The Subrecipient shall secure and maintain, during the term of this Award, at its own expense, comprehensive and general public liability insurance and/or other types of insurance as the Agency may require. The Subrecipient shall secure and maintain, during the term of this Award, at its own expense, workers' compensation insurance in the amounts required by the applicable laws of the State of New Mexico covering the Subrecipient's employees. All policies of liability insurance that Subrecipient is obligated to maintain, according to this Award, except for any policy of workers' compensation insurance, shall name Agency as an additional insured. The Subrecipient shall furnish to the Agency, directly from its insurance carrier, a memorandum or certification of all insurance carried, before the payment of any monies as consideration for the services rendered hereunder shall be made. Upon such certificates and/or memoranda being furnished to the Agency, the same shall be annexed to this Award and by reference made a part hereof.

Subrecipient shall submit to the Agency an audit conducted by a certified public accountant in compliance with the Single Audit Act.

18. Indemnification.

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Award. Any liability incurred in connection with this Award is subject to the immunities and limitation of the New Mexico Tort Claims Act.

19. Internal Dispute Mediation.

The Subrecipient shall attempt to resolve all disputes with participants by negotiation in good faith and with such mediators as may be acceptable to the parties involved. The Subrecipient shall implement an internal grievance policy with procedures in place to effectively and fairly negotiate and resolve disputes with participants. The Subrecipient must provide all participants with notice, at the commencement of the contract year that disputes may be resolved in this manner. If negotiation and mediation through the grievance procedure fail, any party may submit the dispute to the ALTSD in accordance with the following provisions:

1. In any dispute submitted, the Agency and the Subrecipient hereby agree and consent to the ALTSD mediation of the dispute.
2. Mediation may only be instituted by written request, which request shall include a statement of the matter in controversy.
3. Initial contacts and negotiation shall be conducted by the appropriate Agency staff.
4. Any resolution of the matter shall be binding and final on the Subrecipient and the Subrecipient hereby agrees to be bound by said resolution.
5. Failure of the Subrecipient to resolve any dispute pursuant to the procedures set forth herein or to comply with a resolution ordered by the ALTSD shall amount to a material breach of this Award.
6. Internal Dispute Mediation does not supersede the appeal hearing policies and procedures.

20. Participant Grievance.

The Subrecipient will establish a system through which applicants for, and recipients of services, may present grievances about the operation of the service program. The Subrecipient will advise applicants and recipients of their right to appeal denial of service and their right to a fair hearing of these respects. The Subrecipient shall notify the Agency of termination of services, to a client, as part of a monthly service report, on any services funded by this Award. The Agency reserves the right to perform follow-up investigations with the client to determine adequate performance and adherence to due process.

21. KEY PERSONNEL.

26. **Authority.**

The individual(s) signing this Award on behalf of Subrecipient represents and warrants that he or she has the power and authority to bind Subrecipient, and that no further action, resolution, or approval from Subrecipient is necessary to enter into a binding contract.

27. **Signatures.**

For the faithful performance of the terms of this Award, the parties affix their signatures and bind themselves **retroactive to March 1, 2020.**

City of Gallup - Gallup Sr. Program
Legal Name of Subrecipient

Signature

Maryann Ustick, Gallup City Mgr.
Printed/Typed Name of Signatory

Date

NCNMEDD Non-Metro Area Agency on Aging
Name of Area Agency on Aging

Monica Abeita
Signature

Monica Abeita, Executive Director
Printed/Typed Name of Signatory

04/30/2020
Date

**North Central New Mexico Economic Development District
Non-Metro Area Agency on Aging
COVID-19 FFCRA FEDERAL SUB-AWARD**

ATTACHMENT 1 –SCOPE OF WORK

A. Purpose.

The purpose of this Scope of Work is to assure the delivery of home delivered and congregate meal services pursuant to and in accordance with the Family First Coronavirus Response Act, (FFCRA), Title III of the Older Americans Act of 1965 and all relevant amendments and state and federal enabling regulations, within the Service Area. The services provided shall support older adults in maintaining independent and healthy lifestyles, address food insecurity and nutrition.

B. Target Population.

1. Target populations include persons age 60 or older and their spouses of any age, younger disabled persons who reside with persons age 60 or older, caregivers of any age who care for persons age 60 or older, caregivers age 60 or older who care for children or younger disabled persons, and the recipients of their care.
2. Per the Older Americans Act, an effort must be given to serving eligible persons with the greatest social or economic need, with particular attention to minority individuals with low incomes. Efforts must also be given to targeting individuals residing in rural areas, individuals with limited English proficiency, and individuals with Alzheimer's disease and related disorders, with severe disabilities or at-risk of institutionalization and their caregivers.

C. Guidelines for FFCRA funds.

1. This Award acknowledges New Mexico's Major Disaster Declaration (MDD) (<https://www.fema.gov/disaster/4529>) which allows flexibility for use of the Families First Coronavirus Relief Act (FFCRA) by subrecipients.
2. The MDD allows for maximum flexibility in FFCRA and does not need a separate application, transfer request, or request for a waiver --to use existing Title C-1 and C-2 for disaster relief. This means subrecipient contractors may use Title C-1 and C-2 funds **for any disaster relief activities** for older individuals or family caregivers served under the OAA.
3. The flexibility applies to funding awarded in current FY20 contracts, and any future contracts issued for FFCRA funding. **As of March 2020, all expenditures should be based upon actual expenditures and should not be tied to a unit or unit cost.** Please

note the reporting requirement below to use the COVID-19 SAMS roster to capture units of service.

4. Meals funded through FFCRA following a declaration of a major disaster, are not required to meet the DGAs and the DRIs, *however*, ACL recommends the use of these standards to help older adults maintain their health and manage their chronic conditions and to provide quality service.
5. When meals that meet the DRIs/DRAs are unavailable, subrecipients should try to provide meals that meet, at a minimum, no less than 1/3 of the recommended daily caloric intake for an older individual.

D. Responsibilities of the Subrecipient.

1. Allowable Activities
 - a. Increase the number of congregate and home delivered meals provided.
 - b. Restore or reinstate staff positions that have been eliminated or reduced.
 - c. Create jobs that will support the increase in number of meals provided.
2. Funding Requirements
 - a. FFCRA funding was originally granted specifically for C-1 and C-2 services. The MDD means this funding can be used for any disaster relief activities for older individuals or family caregivers served under the OAA.
 - b. FFCRA funds are transferable between Title III -C1 and Title III-C2
 - c. Subrecipients have flexibility on allocating funds.
3. Reporting Requirements
 - a. FFCRA funding will be tracked separately from the Older Americans Act program funds.
 - b. Subrecipients are required to submit separate reports specifically related to the Award.
 - c. Subrecipients shall utilize the COVID-19 SAMS roster to capture units of service – regardless of what they are.
 - d. Subrecipients must maintain a separate accounting fund for FFCRA dollars.
 - e. C-1 and C-2 reporting must be separate for both program and fiscal reports.
 - f. Subrecipients shall only be compensated for expenses itemized in their approved FFCRA budget form which is to be completed and returned each month per the reporting requirements.

{end}

**NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
NOTIFICATION OF GRANT AWARD
(NGA)**

GRANTEE: Gallup, City of ADDRESS: PHONE:				APPROVED BUDGET PERIOD FROM: 4/1/2020 TO: 9/30/2021		Grant/Action New/Cont: Revision: BAR: Other:		NGA DATE 4/30/2020	
DESCRIPTION				FEDERAL	STATE	LOCAL	IN-KIND	PROJ. INC.	TOTAL
AAA Administration				0	0	0	0	0	0
Title IIIB				8525.96	0	0	0	0	8525.96
Title IIIC1				17052.8	0	0	0	0	17052.8
Title IIIC2				0	0	0	0	0	0
Title IIID				0	0	0	0	0	0
Title IIIE				0	0	0	0	0	0
Subtotal				\$ 25,578.76	\$ -	\$ -	\$ -	\$ -	\$ 25,578.76
Title IIIB Access				\$ -			\$ -		\$ -
In-Home							\$ -		\$ -
Community All Other				\$ -		\$ -	\$ -		\$ -
Subtotal				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Title IIIC1 Meal Costs				\$ 8,525.96					\$ 8,525.96
Subtotal				\$ 8,525.96	\$ -	\$ -	\$ -	\$ -	\$ 8,525.96
Title IIIC2 Meal Costs				\$ 17,052.80					\$ 17,052.80
SubTotal				\$ 17,052.80	\$ -	\$ -	\$ -	\$ -	\$ 17,052.80
Title IIID Health Promotion				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub Total				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Title IIIE Alzheimer Care Giver Support				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub Total				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
DEMONSTRATION DEMO GRANT									
ALZHEIMER Respite Care				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub Total				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
ALL STATE OTHER				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub Total				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SUB TOTALS									
Title IIIB				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Title IIIC1				\$ 8,525.96	\$ -	\$ -	\$ -	\$ -	\$ 8,525.96
Title IIIC2				\$ 17,052.80	\$ -	\$ -	\$ -	\$ -	\$ 17,052.80
Title IIID				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Title IIIE				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Alzheimer Respite Care				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All State Other				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
GRAND TOTAL				\$ 25,578.76	\$ -	\$ -	\$ -	\$ -	\$ 25,578.76
COMPUTATION OF GRANT				8. Federal/State Shares will be comprised of: a. Federal/State FY 20 ____ Federal 0 grant unearned State 0 In previous project year(s) 0 b. Carry Over FY 20 ____ Federal 0 State 0 c. New Obligational FY-2020 Federal 0 \$ 25,578.76 Authority Herein Awarded State 0 \$ -					
1. Estimated Total Cost..... \$ 25,578.76									
2. LESS Anticipated Proj. Inc. \$ -									
3. Estimated Net Cost..... \$ 25,578.76									
4. Non-federal and Non-state Share of Net Cost.....									
5. Proj. Inc. (Used as Match)..... \$ -									
6. Federal Share of Net Cost..... \$ 25,578.76									
7. State Share of Net Cost... \$ -									
<small> All accounting records are to be kept in accordance with federal and state policy and readily available for submission by Area Agency personnel or other federal and state officials authorized to review any or all financial and programmatic records. Such records shall be retained in accordance with the following: 1. Keep separately and complete financial records, and report promptly and fully to the Area Agency. 2. If a federal and/or state audit has not been made within three (3) years after project termination, project records may then be destroyed, on approval of the Agency. 3. In all cases, an overriding requirement exists to retain records until resolution of any audit questions relating to individual grants. 4. Non-federal resources must be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee then owes the Area Agency this amount. This amount may constitute a cash advance on any funds awarded to the Grantee by the Area Agency for the following project year. 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies. 6. Unearned federal and/or state cash at the time the project is terminated shall be returned in full to the Area Agency. 7. All obligations will be liquidated within 30 days after the end of the project year and before final program and financial reports are submitted. 8. Inventory of project equipment will be maintained and submitted as requested. 9. Project records will be preserved and kept available to federal and state auditors at the primary offices of the Grantee. </small>									
Signature of Area Agency on Granting Authority: Offical Monica Abaita, Executive Director				Yes, the undersigned officers of the Grantee organization, certify that we are in agreement with the terms and conditions of this award: Date: _____ Date: _____					